

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

The Estate of DIANE MILJAN, MICHAEL  
MILJAN, Personal Representative of the Estate of  
DIANE MILJAN, NICHOLAS MILJAN, and  
ROSEANNE STAVROS,

UNPUBLISHED  
August 21, 2007

Plaintiffs/Counter Defendants-  
Appellants,

and

The Estate of ROSE JEDICK,

Plaintiff-Counter Defendant,

and

MICHAEL MILJAN, Personal Representative of  
the Estate of ROSE JEDICK,

Plaintiff,

v

No. 268064  
Clare Circuit Court  
LC No. 02-900271-CH

ROBERT N. JEDICK,

Defendant/Counter Plaintiff/Cross  
Defendant-Appellee,

and

GEORGE T. ALBRIGHT, CAROLE L.  
ALBRIGHT, and SHERRY L. WERNER,

Defendants/Counter Plaintiffs/Cross  
Plaintiffs-Appellees.

---

The Estate of DIANE MILJAN, The Estate of  
NICHOLAS MILJAN, The Estate of MICHAEL  
MILJAN, and The Estate of ROSEANNE

STAVROS,

Plaintiffs-Appellants,

v

ROBERT N. JEDICK,

Defendant/Cross Defendant-  
Appellee,

and

VALLEY TRAIL RIDERS, a/k/a MOTORCYCLE  
CLUB, INC.,

Defendant/Cross Plaintiff-Appellee.

---

The Estate of DIANE MILJAN, The Estate of  
NICHOLAS MILJAN, The Estate of MICHAEL  
MILJAN, and The Estate of ROSEANNE  
STAVROS,

Plaintiffs-Appellants,

v

ROBERT N. JEDICK,

Defendant-Appellee.

---

No. 268065  
Gladwin Circuit Court  
LC No. 02-000272-CH

No. 268067  
Gladwin Circuit Court  
LC No. 02-000274-CH

Before: Bandstra, P.J., and Cavanagh and Jansen, JJ.

PER CURIAM.

In this consolidated action, plaintiffs appeal as of right the denial of their motion for new trial after the entry of judgment in defendants' favor following a bench trial. We affirm.

This case challenges the validity of several real property conveyances. The evidence indicates that the family patriarch Ned Jedick inherited the property at issue. When he died intestate in 1975, a one-third share in the title to the property was given to his surviving wife Rose Jedick, and each of their two children, Robert Jedick and Diane Miljan. In 1979, Rose, Robert, and Diane sold a portion of the property. Three quit claim deeds purportedly signed in 1987 and recorded in 1990 indicate that Robert and Diane signed over their remaining interest in the property to Rose. Recorded deeds indicate that Rose subsequently sold some of the property

back to Robert, and to the other defendants in this case, the Valley Trail Riders, George Albright, Carole Albright, and Sherry Werner. Diane died in 1987, and Rose died in 2001. Diane's husband, Nicholas Miljan, and her children, Michael Miljan and Roseanne Stavros, brought this action to challenge the validity of the property transfers on the ground that several of the necessary signatures were forged.

A bench trial on this matter began on June 16, 2004, and continued on June 17 and June 18, 2004. Trial reconvened on July 30, 2004, and closing arguments were heard on October 15, 2004. On April 29, 2005, the trial court issued its written findings of fact and conclusions of law, including that plaintiffs failed to meet their burden of proof that the challenged signatures were forged, thus, dismissing their complaints. Plaintiffs' motion for a new trial was denied and this appeal followed.

Plaintiffs argue that they were entitled to a new trial because the trial court's several month delay in rendering its opinion caused the court to be unable to accurately recollect the evidence presented as demonstrated by the prejudicial factual errors in the court's findings of fact. We disagree. A decision on a motion for new trial is reviewed for an abuse of discretion, which occurs when a court chooses an outcome that is not within the principled range of outcomes. *McManamon v Redford Twp*, 273 Mich App 131, 138; 730 NW2d 757 (2006).

MCR 2.611(A)(1)(a) provides, in relevant part, that a new trial may be granted when the substantial rights of a party were materially affected because of an irregularity in the proceedings of the court that denied the party a fair trial. The irregularity claimed here is the lapse of time between the close of proofs, the closing arguments, and the court's ultimate decision. Closing arguments were heard more than two months after the close of proofs, and the court issued its ruling more than six months after closing arguments were heard. Plaintiffs argue that the lapse of time made "it impossible for the court to have fully considered the evidence and fairly determined the issues with respect to Plaintiffs' claims." Plaintiffs support their accusation with evidence that some of the factual findings made by the trial court were erroneous.

After review of the record, we cannot conclude that the trial court abused its discretion by denying plaintiffs' motion for a new trial. We agree that the court proceedings were somewhat irregular with regard to the lapses of time between the presentation of the evidence, closing arguments, and the court's ruling. Nevertheless, we cannot conclude that the substantial rights of plaintiffs were materially affected because of the irregularity.

Plaintiffs had the burden of proving by clear and convincing evidence that the challenged conveyances were completed using forged deeds. See *Foodland Distributors v Al-Naimi*, 220 Mich App 453, 459; 559 NW2d 379 (1996). Review of the trial court's findings and conclusions reveals that the court was cognizant of the pertinent evidence, facts, and issues of law. In large part, the case turned on credibility determinations. We note that the court clearly resolved critical credibility determinations in favor of proper conveyances. For example, the court, noting a financial interest, doubted the credibility of plaintiff Michael Miljan's wife Leslie, the notary on three quit claim deeds that conveyed the property from Robert and Diane to their mother Rose, who testified that she did not notarize those deeds. On the other hand, the trial court seemed to find more credible Robert's testimony that he remembered signing the deeds and that his sister Diane had signed them as well.

And, of critical importance, the court clearly found the testimony of defendants' handwriting expert, who was much more credentialed and experienced, more credible than the testimony of plaintiffs' handwriting expert. The court also properly considered the conduct and practices of the parties and concluded that such actions were consistent with proper conveyances. For example, the properties were always treated as if they belonged to Rose; Rose stopped paying property taxes on property she sold to defendant Valley Trail Riders; and defendants Albright and Werner made land contract payments for eight years that were directed into Rose's bank account and Rose had direct and indirect personal contact with these buyers.

In summary, the trial court clearly did not suffer from any lack of information or knowledge as a consequence of the delays in the proceedings. The fact that the trial court rendered a few insignificant erroneous factual findings in no way leads us to conclude that it was "impossible for the court to have fully considered the evidence and fairly determined the issues with respect to Plaintiffs' claims." To the contrary, this was a complicated case that involved a significant amount of evidence to consider and weigh. The trial court's efforts in this regard are commendable. And, the court's explanation for its delay—that it was working on a number of drafts of the opinion during the post-trial period—is credible. Therefore, the trial court did not abuse its discretion when it denied plaintiffs' motion for a new trial. In light of our conclusion, we need not consider plaintiffs' claim that the trial court erred when it further ruled, unnecessarily, that the defense of laches barred plaintiffs' claim.

Affirmed.

/s/ Richard A. Bandstra  
/s/ Mark J. Cavanagh  
/s/ Kathleen Jansen